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BIHAR ELECTRICITY REGULATORY COMMISSION, PATNA

PROCEDURE FOR FILING CAPITAL INVESTMENT AND CAPITALISATION PLAN

NOTIFICATION ***The 13th July, 2018***

No. BERC-SMP-35/2017-09—In exercise of powers conferred under Section 181 of the Electricity Act, 2003(36 of 2003) and all other powers enabling it in this behalf, the Bihar Electricity Regulatory Commission hereby makes the following Regulations on Capital investment Plan and Capitalisation of assets by Distribution & Transmission Licensees in the State.

1. Short Title Extent and Commencement

- 1.1 These Regulations shall be called Bihar Electricity Regulatory Commission (Procedure for filing Capital investment and Capitalisation plan) Regulations, 2018.
- 1.2 These Regulations extend to the whole of the State of Bihar.
- 1.3 These Regulations shall come into force from the date of their publication in the official gazette of Government of Bihar.

2. Definitions

- 2.1 In these Regulations, unless the context otherwise requires:-
 - (i) “Act” means the Electricity Act, 2003 (36 of 2003);
 - (ii) “CERC” means the Central Electricity Regulatory Commission constituted under Section-76 of the Electricity Act, 2003;

- (iii) "Commission" means the Bihar Electricity Regulatory Commission;
- (iv) "Conduct of Business Regulations" means the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations 2005 as amended from time to time;
- (v) "Current Year" means the financial year in which the power procurement plan is filed by the Licensee;
- (vi) "Ensuing Year" means the financial year immediately following the current year;
- (vii) "Licensee" means a person who has been granted a distribution or transmission licence under the Act and shall also include a deemed Licensee;
- (viii) "Long term procurement of power" means procurement of electricity for a period exceeding one year;
- (ix) "Previous Year" means the financial year immediately preceding the current year;
- (x) "Power Purchase Agreement (PPA)" means the agreement entered into between the Procurer(s) and the Seller pursuant to which the Seller shall supply power to the Procurer(s) as per the terms and conditions specified therein;
- (xi) "Procurer(s)" means the Distribution Licensee(s), or the representative of the Licensee(s) authorized by the Distribution Licensee(s) to perform all tasks of procurement of power in accordance with these regulations;
- (xii) "Short term procurement of power" means procurement of electricity for a period less than or equal to one year;
- (xiii) "Year" means financial year beginning 1st April and ending on 31st March of following year.

2.2 The words and expressions used and not defined in these Regulations but defined in the Act, shall have the meanings assigned to them in the Act.

3. Scope of Application

These Regulations shall apply to all Transmission & Distribution Licensee(s) in the state of Bihar.

4. Assessment of Distribution & Transmission Licensees Infrastructure Requirements

4.1 The Distribution Licensee(s) shall make an assessment of Distribution Infrastructure Requirement to meet the demand (MW) and energy requirement (MU) forecasted in accordance with BERC (Power Purchase and Procurement Process of Licensee) Regulations, 2018. The assessment shall be made in such a way that unrestricted 24 hours supply of adequate and uninterrupted power can be ensured to all categories of consumers by 2021-22 or earlier. While making assessment, Distribution licensee(s) shall also take into consideration the following along with other relevant factors –

- (i) Duties and Obligation of Distribution Licensee provided in the Act;
- (ii) Prescribed limits of loading of Lines, Cables, Transformers etc;
- (iii) Prescribed performance parameters of equipments such as Voltage regulation, Reactive energy flow, Power factor etc. by Central Electricity Authority (CEA)/CERC/BERC

- (iii) Implementation of T&D loss reduction initiatives and other improvement programmes;
 - (iv) Different schemes of Government for capacity addition /improving operational efficiency/Electrification/ System strengthening.
 - (v) Load growth of consumers and prospective consumers/Open access consumers
 - (vi) Assets which are going to complete their useful life
 - (vii) The impact of the provisions of the Act and possible switch over of consumers to open access and captive generation
- 4.2 The Transmission licensee(s) shall make assessment of Infrastructure Requirement to meet the demand (MW) and energy requirement(MU) referred in 4.1 above so that demand forecasted by the Distribution licenses are met uninterruptedly and reliably. While making assessment, Transmission licensee(s) shall also take into consideration the following along with other relevant factors –
- (i) Duties and Obligation of Transmission Licensee provided in the Act;
 - (ii) Prescribed limits of loading of Lines, Cables, Transformers etc;
 - (iii) Prescribed performance parameters of equipments such as Voltage regulation, Reactive energy flow, Power factor etc. by Central Electricity Authority (CEA)/CERC/BERC
 - (iii) Implementation of Technical loss reduction initiatives and other improvement programmes;
 - (iv) Different schemes of Government for capacity addition/ improving operational efficiency/Electrification /System strengthening.
 - (v) Assets which are going to complete their useful life
 - (vi) Demand of prospective Open access consumers
 - (vii) The impact of the provisions of the Act and possible switch over of consumers to open access and captive generation.

5. **Capital investment plan**

On the basis of Infrastructure requirement assessed in accordance with the provisions of these Regulations, the Distribution and Transmission Licensee(s) shall prepare a rolling plan of ten years for Capital investment Plan and capitalization for capacity addition/improving operational efficiency/electrification/system strengthening with an overall objective of supplying unrestricted, uninterrupted and quality power to the consumers (including open access consumers) in the State. While planning for capacity addition/system strengthening the Licensees shall also consider the following along with other relevant factors prevailing in the state:

- (i) Different schemes of Government for capacity addition /improving operational efficiency/Electrification /System strengthening.
- (ii) Capital investment plan shall clearly show the scheme wise objective of the investment plan and cost benefit analysis of the investment along with the yearly capital expenditure and capitalization schedule.
- (iii) Capital investment plan shall clearly show the scheme wise source of funding under the heads Equity, Loan, Grant, consumers contribution and internal resources;

- (iv) The Capital investment plan shall be the least cost plan (least financial cost to the licensee) with ultimate objective being to make available unrestricted, uninterrupted and reliable power supply at economically viable tariffs to all consumers while satisfying power supply planning and security standards.
- (v) In case the Commission issues guidelines and formats, from time to time, the same shall be adhered to by the Distribution and Transmission Licensee(s).

6. Approval of Capital investment plan

- 6.1 The rolling capital investment plan shall be integral part of the ARR to be filed every year. The first such capital investment plan for next 10 years shall be submitted by the licensee(s) along with the Multiyear ARR for third control period starting from financial year 2019-20.

Provided that under special circumstances Licensees may also file capital investment plan separately seeking approval thereon if it warrants so and not included in its earlier filing. Such application must contain all supporting documents inter-alia justification for filing separate petition, purpose of investment, capital structure, DPR, capitalization schedule, financing plan and cost benefit analysis etc

- 6.2 The Licensee(s) shall submit the Capital investment Plan every year with the ARR/Multiyear ARR petition and it should inter-alia contain:—

- (a) Scheme wise Source wise actual capital expenditure and capitalization for previous year vis-a-vis projected in the investment plan for that year;
- (b) Scheme wise Source wise actual capital expenditure and capitalization for first six months of current year vis-a-vis projected in the investment plan for that period;
- (c) Scheme wise Source wise capital investment plan containing year wise schedule of capital expenditure and capitalization for next ten years starting from ensuing years. Based on actual expenditure and capitalization the rolling plan may get revised in subsequent filings. The capital investment plan should show scheme wise objective of the investment.

Provided that such capital investment plan seeking regulatory approval shall be supported with Detailed Project Report (DPR) duly approved by the competent authority.

Provided further that if DPR duly approved by the competent authority is not available till finalization of the capital investment plan, the licensee(s) may include such investment in the capital investment plan as mentioned above. However the licensee shall submit the approved DPR to the Commission in its immediate next filing following approval of such DPR.

Provided also that the Capital investment (made out of internally generated fund) for which no DPR is prepared shall also be a part of capital investment plan as mentioned above. However the licensee shall submit such

statement/report to substantiate the purpose and nature of investment duly approved by the competent authority.

- 6.3 The Commission may, call for such additional information or particulars or documents as the Commission may consider necessary for approving the investment Plan;
- 6.4 The Commission may, at its discretion, direct the licensee(s) to publish the main details of the investment Plan in such manner as the Commission may direct, so as to enable public/stakeholders to file objections, comments or suggestions, in the manner indicated in the Conduct of Business Regulations of the Commission. The Commission shall consider such representations before approval of the plan;
- 6.5 The Commission shall approve such investment Plan with such modifications or such conditions as may be mentioned in that order or reject the same after giving the Licensee(s) ample opportunity of being heard with reasons to be recorded in writing.
- 6.6 Notwithstanding anything contained in these Regulations, the licensee(s) shall normally get prior approval of every capital investment.

Provided that the Distribution and Transmission Licensee(s) may invest up to Rs 5 crore and Rs 20 crore respectively without prior approval of the Commission to meet emergency conditions arisen due to unforeseen circumstances. Such investment should be certified as emergent nature by the Board of Directors or by the Authority delegated by the Board of Directors. However in such cases the licensee(s) shall submit detailed justification along with supporting documents for emergent nature of expenses within 15 days of occurrence of cause for such investment.

7. Power to Remove Difficulties

If any difficulty arises in giving effect to any provisions of these Regulations, the Commission may by general or specific order, do or undertake or direct the Distribution Licensee to do or undertake things which in the opinion of the Commission are necessary or expedient for removing the difficulties.

8. Power to Amend

The Commission may at any time, vary, alter, modify or amend any provisions of these Regulations.

By order of the Commission,
NIRAD PRAKASH,
Secretary.

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